

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: James R. Jenkins, Jr. )  
Dist. 3, Map 26, Control Map 26, Parcel 30.00, ) Cheatham County  
S.I. 000 )  
Farm Property )  
Tax Year 2007 )

### INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$182,000	\$127,700	\$309,700	\$ -
USE	\$ 36,300	\$127,700	\$164,000	\$41,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 17, 2007 in Ashland City, Tennessee. In attendance at the hearing were James R. Jenkins, Jr., the appellant, and Betty Balthrop, Cheatham County Assessor of Property.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 51 acre tract improved with a log home located at 1140 Herb Harris Road in Ashland City, Tennessee.

The taxpayer contended that subject property should be valued at \$265,000. In support of this position, the taxpayer argued that he purchased subject property on June 15, 2006 for \$265,000. In addition, the taxpayer asserted subject property experiences a diminution in value because (1) it is a log home; (2) has window units rather than central heat and air; (3) lacks city water; (4) a creek runs through the property; and (5) the topography of subject land.

The assessor contended that subject property should remain valued at 309,700. In support of this position, three vacant land sales and two improved sales were introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$309,700 based upon the presumption of correctness attaching to the decision of the Cheatham County Board of Equalization.



Since the taxpayer is appealing from the determination of the Cheatham County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's purchase of subject property on June 15, 2006 for \$265,000 was not an arm's-length transaction and therefore lacks probative value. The administrative judge finds that Mr. Jenkins purchased subject property from his parents. The administrative judge finds that subject property was not offered for sale on the open market. Moreover, the administrative judge finds that the sale price was arrived at by simply taking the \$255,000 paid for subject property by Mr. Jenkins' parents on February 14, 2003 and adding the amount subsequently spent on improvements. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds merely reciting factors that could cause a diminution in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.



Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

As previously indicated, the administrative judge has affirmed the current appraisal of subject property based upon the presumption of correctness attaching to the decision of the Cheatham County Board of Equalization. The administrative judge has relied on the fact the burden of proof is on the taxpayer rather than on the sales introduced by the assessor of property. The administrative judge finds that Mr. Jenkins raised several legitimate questions concerning the comparables that Ms. Balthrop was unable to answer. For example, it is unclear whether the comparables have city water or how they lay in comparison to the subject.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

	<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
MKT.	\$182,000	\$127,700	\$309,700	\$ -
USE	\$ 36,300	\$127,700	\$164,000	\$41,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

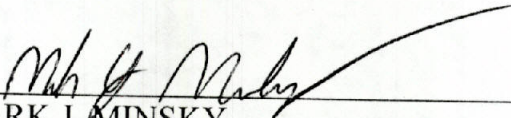
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or



2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 30th day of October, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. James R. Jenkins, Jr.  
Betty G. Balthrop, Assessor of Property